

1 ENERGY AND ENVIRONMENT CABINET

2 Department for Natural Resources

3 Division of Mine Safety

4 (Amendment)

5 805 KAR 3:100. Equipment use and operation.

6 RELATES TO: KRS 351.070

7 STATUTORY AUTHORITY: KRS 351.070

8 NECESSITY, FUNCTION, AND CONFORMITY: KRS 351.070 authorizes the Secretary
9 of the Energy and Environment Cabinet to promulgate, amend, or rescind any administrative
10 regulations as necessary and suitable for the proper administration of KRS Chapter 351. This
11 administrative regulation establishes safety standards controlling the use and operation of
12 equipment in the Commonwealth's surface type coal and clay mines, which include strip and auger
13 mining operations.

14 Section 1. (1) The following items shall be guarded to prevent injury:

15 (a) Gears;

16 (b) Sprockets;

17 (c) Chains;

18 (d) Drive, head, tail, and take-up pulleys;

19 (e) Flywheels;

20 (f) Couplings;

- 1 (g) Shafts;
- 2 (h) Sawblades;
- 3 (i) Fan inlets; and
- 4 (j) Similar exposed moving machine parts that may cause injury to persons.

5 (2) An overhead belt shall be guarded if the whipping action from a broken belt may be
6 hazardous to a person below.

7 (3) A guard at conveyor drive, head, and tail pulleys shall be sufficient to prevent a person
8 from reaching behind the guard and becoming caught between the belt and the pulley.

9 (4) A protruding set screw on revolving parts shall be guarded.

10 (5) Except while testing the machinery, a guard shall be securely in place while machinery
11 is being operated.

12 (6) A guard shall be sufficiently strong and maintained to provide the required protection.

13 (7) A stationary grinding machine other than a special bit grinder shall be equipped with:

14 (a) Peripheral hoods (less than ninety (90) degree throat openings) capable of withstanding
15 the force of a bursting wheel;

16 (b) Adjustable tool rests set as close as practical to the wheel; and

17 (c) Safety washers.

18 (8) A face shield or goggles, in good condition, shall be worn while operating a grinding
19 wheel.

20 (9) A hand-held power tool, other than a rock drill, shall be equipped with controls
21 requiring constant hand or finger pressure to operate the tools or shall be equipped with friction or
22 other equivalent safety devices.

1 (10) A guard or shield shall be provided in areas where flying or falling materials present
2 a hazard.

3 (11) (a) A vehicle, such as a fork lift, truck, front-end loader, and bulldozer, shall be
4 provided with rollover protection, if necessary, to protect the operator.

5 (b)1. Beginning January 1, 2016:

6 a. An excavator newly placed in service at a licensed facility shall be equipped with rollover
7 protection that shall meet, at a minimum, the International Organization for Standardization (ISO)
8 12117-2:2008 standard or the equivalent ISO standard; and

9 b. i. A person operating an excavator that is not equipped with certified rollover protection
10 pursuant to subsection (11)(b)1.a. of this administrative regulation shall be trained by the Division
11 of Mine Safety as having successfully completed an excavator operation safety course.

12 ii. The training established in subclause i. of this clause shall be recorded on the Mine
13 Safety and Health Administration Form 5000- 23, which shall be maintained on the mine premises.

14 2. An excavator manufactured before 2011 shall meet and maintain the safety standards in
15 place at the time the equipment was manufactured. [~~Beginning January 1, 2020, any excavator in~~
16 ~~operation at a licensed facility shall be equipped with rollover protection meeting the current~~
17 ~~International Organization for Standardization (ISO) standards in place.]~~

18 (12) (a) A vehicle, such as a fork lift, truck, front-end loader, and bulldozer, shall be
19 provided with falling object protection, if necessary, to protect the operator against falling material.

20 (b)1. An excavator manufactured after January 1, 2011, shall be provided with falling
21 object protection. The falling object protection shall meet ISO standards in place when the machine
22 was manufactured.

1 2. Effective January 1, 2016, an excavator that operates in an application with the risk of
2 falling objects shall be equipped with falling object protection that shall meet, at a minimum, the
3 ISO 10262:1998 Level II standard or the equivalent ISO standard.

4 (13) Unsafe equipment or machinery shall be removed from service immediately.

5 (14) Machinery and equipment shall be operated only by an authorized and experienced
6 person.

7 (15) A repair or maintenance shall not be performed on machinery until the power is off
8 and the machinery is blocked against motion, except if machinery motion is necessary to make an
9 adjustment or if nonenergized components of large machinery can be safely repaired while the
10 machine is operating.

11 (16) A person shall not work on mobile equipment in a raised position until it has been
12 blocked in place securely. This shall not preclude the use of equipment specifically designed for
13 these purposes, such as elevated mobile work platforms.

14 (17) A drive belt shall not be shifted while in motion unless the machine is provided with
15 a mechanical shifter.

16 (18) A belt, chain, or rope shall not be guided onto a power driven moving pulley, sprocket,
17 or drum with the hands, except on slow moving equipment especially designed for hand feeding.

18 (19) A pulley or conveyor shall not be cleaned manually while the conveyor is in motion.

19 (20) A belt dressing shall not be applied manually while the belt is in motion unless an
20 aerosol-type dressing is used.

21 (21) Machinery shall not be lubricated while in motion if a hazard exists unless equipped
22 with extended fittings or cups.

805 KAR 3:100 approved for filing.
Pages (1-5)

3/13/2019

Date

Charles G. Snavely
Charles G. Snavely, Secretary
Energy and Environment Cabinet

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on April 23, 2019 at 5:00 P.M. (Eastern Time) in Training Room C of the Energy and Environment Cabinet at 300 Sower Blvd, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through April 30, 2019. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Michael Mullins, Regulation Coordinator, 300 Sower Blvd, Frankfort, Kentucky 40601, phone: (502) 782-6720, fax: (502) 564-4245, email: michael.mullins@ky.gov.

REGULATORY IMPACT ANALYSIS
AND TIERING STATEMENT

Administrative Regulation No.: 805 KAR 3:100

Contact Person: Michael Mullins

Contact number: (502) 782-6720

Email: michael.mullins@ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes safety standards controlling the use and operation of equipment in the Commonwealth's surface type coal and clay mines, which include strip and auger mining operations.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to require safety standards for equipment used on surface coal mines and clay mines within the Commonwealth.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 351.070(12) provides that the Commissioner may "prescribe reasonable safety standards governing the use of explosives, and electrical and mechanical equipment in the operation of open-pit or surface mines." This administrative regulation provides safety standards for equipment.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides details concerning safety requirements for equipment used at surface type coal and clay mines which include strip and auger mining operations.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment will require excavators manufactured prior to 2011 to be equipped with safety equipment that meets the safety standards in place at the time the equipment was manufactured. This equipment must be maintained on the equipment for its active life.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary correct a requirement that when originally promulgated requiring the ISO standard for equipment manufactured prior to 2011. This requirement could not be met because the equipment could not be safely retrofitted to meet the ISO standard.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the authorizing statutes by correcting a requirement that couldn't safely be met for excavators manufactured prior to 2011.

(d) How the amendment will assist in the effective administration of the statutes: KRS 351.070(12) provides that the Commissioner may "prescribe reasonable safety standards

governing...mechanical equipment in the operation of open-pit or surface mines.” This amendment will correct a requirement that couldn’t safely be met for excavators manufactured prior to 2011. However, training will be required for these excavators.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All surface mines in the Commonwealth and a few underground mines, depending on if they are using excavators in areas where there are dangers of rollover, could be impacted.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The entities listed in question (3) above will be required to ensure their excavators manufactured prior to 2011 meet the safety standards in place at the time the equipment was manufactured. They also need to ensure those excavators continue to meet those standards.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): This amendment will not result in a significant cost to the entities described in (3). This amendment will require the entities in (3) to maintain their equipment so that the excavators continue to meet those standards. The cost associated with this amendment will be in the form of maintenance costs.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): These entities will no longer be expected to meet a safety standard that was not feasible for them to meet in a safe manner.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: There will be no costs to the administrative body with implementation of this amendment.

(b) On a continuing basis: There will be no costs to the administrative body with implementation of this amendment.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The funding for implementation of the amendments to this administrative regulation will be General Funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: The amendments to this administrative regulation will not require an increase in fees or funding.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish or increase any fees.

(9) TIERING: Is tiering applied? (Explain why or why not) No. All entities that use excavators will be required to meet the same requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Administrative Regulation No.: 805 KAR 3:100
Contact Person: Michael Mullins

Contact number: (502) 782-6720
Email: michael.mullins@ky.gov

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Division of Mine Safety.
2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 351.070.
3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.
 - (a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This new administrative regulation will not generate any new revenue for the state or local government. This administrative regulation will not generate revenue.
 - (b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This new administrative regulation will not generate revenue in subsequent years.
 - (c) How much will it cost to administer this program for the first year? There will not be a cost increase associated with the amendments to this administrative regulation.
 - (d) How much will it cost to administer this program for subsequent years? Future costs would remain essentially unchanged related to this amendment.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): NA

Expenditures (+/-): NA

Other Explanation: NA